

United States District Court **FILED**
DISTRICT COURT OF GUAM

for

JAN 11 2007 *nba*

District of Guam

MARY L.M. MORAN
CLERK OF COURT

**Report for Modifying the Conditions or Term of Supervision
with Consent of the Offender**
(Probation Form 49, Waiver of Hearings is Attached)

Name of Offender: **Sabino Ayuyu**

Case Number: **MJ 04-00024-002**

Name of Sentencing Judicial Officer: U.S. Magistrate Judge Joaquin V.E. Manibusan, Jr.

Date of Original Sentence: March 29, 2005

Original Offense: Count I: Unlawful Taking of Wildlife, in violation of 16 U.S.C. §3372(a)(3)(A) and 18 U.S.C. §§7(3) and 13.

Count II: Entering Military Property, in violation of 18 U.S.C. §1382.

Original Sentence: A two-year term of probation with conditions: not commit another federal, state, or local cri; not unlawfully possess a controlled substance; refrain from any unlawful use of a controlled substance. The drug condition, however, was suspended based on the Court's determination that the defendant posed a low risk of future substance abuse; not possess a firearm, ammunition, destructive device, or any other dangerous weapon; comply with the standard conditions of probation as set forth bt the U.S. Sentencing Commission; perform 200 hours of community servie; pay a \$20 special assessment fee; and pay a \$50 fine. On **October 17, 2006**, an Informational Report was filed requesting no action in regards to the defendant's failure to follow the instructions of the probation officer.

Type of Supervision: Probation

Date Supervision: March 29, 2005

PETITIONING THE COURT

☐ To extend the term of supervision _____ years, for a total term _____ years.

☒ To modify the conditions of supervision as follows:

1. That the defendant shall refrain from the use of any and all alcohol and shall submit to random alcohol testing upon the request of the U.S. Probation Office.

CAUSE

On December 12, 2006, Guam Police Officer J. Rosete met with Ernest Kapileo, who appeared highly intoxicated. At interview, he stated that his brother-in-law, Sabino Ayuyu, had beaten him up after an argument ensued about Mr. Ayuyu's sister in the past. Mr. Ayuyu, who was standing in the garage area, also appeared highly intoxicated. Officer Rosete asked him to come out of the poorly-lit garage area. Mr. Ayuyu then stated, "No, I don't want to come out there. I don't want to talk to you guys." Officer Rosete asked Mr. Ayuyu to come out of the garage a second time at which time, he complied. Mr. Ayuyu and Mr. Kapileo were then transported to the Hagatna Precinct for further questioning. While at the Hagatna Precinct, both individuals provided conflicting statements about what had happened and who attacked first. After questioning, both men indicated that that did not wish to file a complaint against the other. On December 13, 2006, Mr. Ayuyu advised this Officer that he was taken to the Hagatna Police Station for questioning after an argument with his brother-in-law and that he was highly intoxicated.

Except as outlined above, Mr. Ayuyu has complied with the conditions of supervision since being placed on probation. He paid his \$20 special assessment fee on April 5, 2005 and his \$50 fine on May 8, 2006. He also submits his monthly supervision reports in a timely manner. Mr. Ayuyu is presently performing community service and has a balance of 96 hours as of December 22, 2006.

This Officer respectfully requests that the Court modify Mr. Ayuyu's standard conditions be modified to include that he refrain from any and all use of alcohol, and submit to random alcohol testing. Attached is Probation Form 49, Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision, with Mr. Ayuyu's consent to the modification. Mr. Ayuyu's progress will continue to be monitored and any further noncompliance will be reported to the Court accordingly.

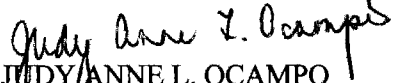
Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON

U.S. Probation Officer
Supervision Unit Leader

Date: 1/9/07

Respectfully submitted,

by: 
JUDY ANNE L. OCAMPO


U.S. Probation Officer

Date: 1/8/07

THE COURT ORDERS

- ☐ No Action.
- ☐ The Extension of Supervision as Noted Above.
- ☒ The Modification of Conditions as Noted Above.
- ☐ Other.

RECEIVED
JAN 10 2007
DISTRICT COURT OF GUAM
HAGATNA, GUAM


JOAQUIN V.E. MANIBUSAN, JR.
U.S. Magistrate Judge
District of Guam
1/11/2007
Date

United States District Court

for

District of Guam

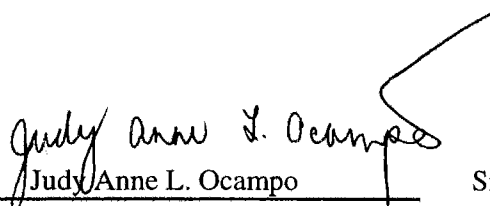
Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

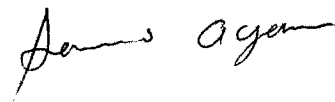
I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

1. That the defendant's conditions be modified to reflect that he shall refrain from the use of any and all alcohol and shall submit to random alcohol testing upon the request of the U.S. Probation Office.

Witness:


Judy Anne L. Ocampo
U.S. Probation Officer

Signed:


Sabino Ayuyu
Probationer or Supervised Releasee

12-18-05

Date